

FILED
CLERK, U.S. DISTRICT COURT
DISTRICT OF DELAWARE

2008 JUN -4 AM 10:04

DIAMOND STATE PORT CORPORATION

SS

INCIDENT REPORT

DSPC # 07-007

Complainant/victim: Louis A. HARDING /Employee # 779 Case # 30-07-5354

Address: 401 S. Harrison St. Date: 19 JAN '07

City/State/Zip: WILMINGTON DE

Location: Port of Wilmington /DOLE WAREHOUSE "B" / GRAPE SIDE RAMP

Time of occurrence: 1115 AM Time Reported: 1129 AM

REMARKS (Describe the incident) ON THE ABOVE DATE AND APPROXIMATE TIME,
LOUIS HARDING /EMPLOYEE 779 REPORTED TO HIS IMMEDIATE SUPERVISOR THAT HE WAS A
VICTIM OF AN ASSAULT. SUPERVISOR MICHAEL PHILLIPS CONTACTED THIS WRITER AND ASKED
IF I WOULD RESPOND TO THE FRONT OF THE ADMINISTRATION BLDG. UPON ARRIVAL, WRITER
WAS BRIEFED BY PHILLIPS THAT AN ASSAULT OCCURRED ON THE RAMP OF WING "B"
DOLE GRAPES SIDE INVOLVING HARDING AND EDWARD J. RAINY /DSPC EMPLOYEE #81.
HARDING ADVISED WRITER THAT BOTH HE AND RAINY WERE WORKING ON THE RAMP OF
WING "B" WHEN RAINY STARTED CURSING AND BEING VERBALLY ABUSIVE TOWARDS
HARDING BECAUSE FELT HARDING WASN'T DOING HIS SHARE OF WORK. HARDING
FURTHER ADVISED WRITER THAT HE YELLED AT RAINY TO STOP SPEAKING TO
HIM IN A DEROGATORY MANNER, AT THAT TIME RAINY EXITED HIS FORKLIFT

Officer: Maurice Stokes

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DIAMOND STATE PORT CORPORATION
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Case # 30-07-5354

AND CONFRONTED HARDING BY GETTING IN HIS FACE (PERSONAL ZONE) AND STILL CURSING. A SHOVING MATCH ENSUED WHICH WAS INITIATED BY RAINNEY AND AFTER HARDING PUSHED RAINNEY BACK IN AN ATTEMPT TO QUELL THE SITUATION THATS WHEN RAINNEY WITH A CLOSED LEFT FIST DELIBERATELY PUNCH/STRIKE HARDING IN THE MOUTH CAUSING HIS LIP TO SWELL AND LEAVING A SMALL LACERATION AND BLEEDING. SUPERVISOR PAUL KELLEY BROUGHT RAINNEY TO THE ADMINISTRATION BLDG WHERE WRITER ATTEMPTED TO FIND OUT FROM HIM WHAT HAPPENED, RAINNEY "WAS NOT" BEING FORTHRIGHT WITH WRITER OR UNWILLING TO ANSWER QUESTIONS AS TO THE CHAIN OF EVENTS. AT 12:08PM WILMINGTON POLICE OFFICER HARRICK ARRIVED AND AFTER SPEAKING WITH BOTH HARDING AND RAINNEY IT WAS DETERMINED THAT AN ASSAULT HAD BEEN COMMITTED AGAINST HARDING AND RAINNEY WAS DEEMED THE AGGRESSOR IN THE INCIDENT. (WPD) ISSUED HARDING A CASE # 30-07-5354 AND ADVISED HIM TO RESPOND TO THE POLICE STATION AND OBTAIN A COPY OF THE REPORT AND THEN PROCEDE TO COURT #2D AND SWEAR OUT A WARRANT FOR THE ARREST OF RAINNEY.

NOTE: THERE WERE NO WITNESSES TO THE ASSAULT, SUPERVISOR KELLY ATTEMPTED GATHER WITNESSES BUT NO OTHER EMPLOYEES WITNESSED ANYTHING.

Officer: OFFICER MAURICE STOKES

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Notifications: PATRICK J. HAYTHILL/FSO, DAVID MEANOR/ILA/UNION BUSINESS AGENT
STEVE HINKLE/ILA/UNION SHOP STEWARD.

NO FURTHER ACTION TAKEN BY SECURITY.

Officer: Maurice Shanks

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Reported Date and Time

FRI 01/19/2007 1100

Occurred:

FRI 01/19/2007 1100

Location:

1 Haasel RD Wilmington, DE 19801
PORT OF WILMINGTON

Initial Crime Report

M.O. and Incident Overview:

The listed suspect punched the victim during an altercation.

Grid 191-000	Sector 10	County New Castle	Domestic Related <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	4-F-14 Sent? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Gen Broadcast Sent? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
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Victim Information

Victim Number 001	Name HARDING, LOUIS		Ethnic Origin Non-Hispanic	Age 54	D.O.B. 07/17/1952
Type Individual	Sex Male	Race Black	Resident Status Full Time	Home Telephone (302) 898-8088	Cell Phone
Address 401 S Harrison ST Wilmington, DE 19805		Reporting Person? Victim Injured? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Victim Deceased? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
				Officer Comments	
Injuries	Description of Injuries				

Suspect/Defendant Information

Sequence 001	Type Suspect	SBI Number 00211164	Name RAINEY, EDWARD	Nick Name			
Sex Male	Race Black	Ethnic Origin Non-Hispanic	Age 34	D.O.B. 11/19/1972	Height 5' 07"	Weight 165	Skin Tone Dark
Hair Color Black	Hair Length	Hair Style	Facial Hair	Voice Speech	Teeth	Build	Glasses
Disguise	Disguise Color(s)		Resident Status Full Time	Unusual Characteristics		Armed With Unarmed	
Address 603 W 4th ST Wilmington, DE 19801			Home Telephone (302) 427-0303				
Arrest Number	Suspect's Clothing Description						
Employer/School PIANES	Work Telephone (302) 656-4353						

Crimes and Associated Information

Victim Number 001	Crime Seq 001	Status DE:11:0601:00A1:M:	Crime Description Offensive Touching				
Location Of Offense Other/Unknown		Status No Victim cooperation	Date 01/19/2007	Involvement <input type="checkbox"/> Alcohol <input type="checkbox"/> Drugs <input type="checkbox"/> Computer	General Offense		
Suspected Hate Bias <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No - N/A	Crime Code 13134E - Offensive Touching/Other Assaults/Non-Aggravated						
Burglary Force Involved <input type="checkbox"/> Yes <input type="checkbox"/> No	Weapon/Force Used Personal Weapons/Hands/Feet						
M.O. Information	MO Class Suspect's General Actions	MO Description PUNCHED THE VICTIM IN THE FACE					

DIAMOND STATE PORT CORPORATION POLICY

SUBJECT: WORKPLACE VIOLENCE

Section: 522

Effective: 5/10/04

Revised:

Page 3 of 4:

RESPONDING TO THE VIOLENT SITUATION

When confronted by verbally abusive or harassing persons, if the following actions can be safely undertaken, an employee should:

- a). Attempt to restore calm by courteously asking the person(s) to cease their verbally abusing or harassing actions;
- b). Leave the presence of the abusive person(s);
- c). Notify a supervisor as soon as possible.

When confronted by persons threatening bodily harm, if the following actions can be safely undertaken, an employee should:

- a). Leave the presence of the threatening person;
- b). Notify a supervisor, and/or
- c). Call DSPC security.

Supervisors shall call DSPC security if there is a violent act(s) or property damage.

REPORTING THE VIOLENT ACT OR SITUATION

All threats of (or actual) violence, both direct and indirect, shall be reported as soon as possible to your immediate supervisor, or any other member of management. This includes threats by employees, as well as threats by customers, vendors, solicitors, other supervisors, or other members of the public. When reporting a threat of violence, you should be as specific and detailed as possible.

When an employee observes a person, other than the police or law enforcement personnel, carrying or possessing a weapon while on workplace property, an employee should immediately call the port security.

All suspicious individuals or activities should be reported as soon as possible to a supervisor. Do not place yourself in peril. If you see or hear a commotion or disturbance near your workstation, do not try to intercede or see what is happening.

DIAMOND STATE PORT CORPORATION RECORD OF DISCIPLINE

Name: Edward Rainey

Employee No: 8195

Union Representative Present: T. Kinght, S. Hinkle, J. Welch

Dave Clements

998-7914

898-7914

GENERAL INFORMATION

**Violation of Contract and/or
Work Rules (Specify):**

(302)5939427

Absenteeism:

Other (Specify) Offensive touching

STATEMENT OF FACTS (Compete in detail)

Place of Occurrence: Wing B

Date: 1/19/06

Time:

Person(s) Involved: Harding and Rainey

Supervisor

Involved: P. Kelley

STATEMENT OF INCIDENT: (Complete in detail)

On 1/19/07, P. Kelley reported via email that L. Harding & E. Rainey were involved in a physical confrontation.

ACTION TAKEN

Discipline Administered:

Verbal Warning Written Warning Discharge (See Attachment)
 Suspension (Period):

Related Prior Offences:

Notice to Employee

This Disciplinary action provides you with an opportunity to correct your conduct in the future. Related offenses are cause for more serious disciplinary action up to and including termination.

termination.

Spennard
Human Resource Delegate

Employee refuse to Sign

1/22/07
Date

Union Representative

Date

Note: Signing this document is an acknowledgment of receipt.

Andy Markow

From: Paul Kelley
Sent: Friday, January 19, 2007 3:19 PM
To: Andy Markow
Cc: William Stansbury; Frank Vignuli

Andy

Friday 1/26/07 at dole grapes Louis Hardy 7799, Ed Rainy 8195 had a disagreement on the B ramp at dole grapes a fight in sued and Ed hit Louis in the lip and made it bleed instead of waiting for me to show up and resolve the problem they dealt with this problem buy fighting and Louis came to the office without waiting for me to try to solve the problem .The police were called in and Louis I was told he could file charges if he wants to .I didn't see what happen but I think they both were at fault from different things people have told me.

Thanks PK



MEMORANDUM

DATE: February 15, 2007

TO: *Dave* David Clements / Business Agent, ILA Local 1694-1

FROM: *E.R.B.* Eugene R. Bailey / Executive Director

RE: Level 3 Grievance's - FY 2007 - # 20

On Monday, February 12, 2007, I heard the third step grievance against the termination of Mr. Edward Rainy. Mr. Rainy was terminated for his involvement a physical altercation that occurred on January 19, 2007.

This was the second incident in less than a year that Mr. Rainy was cited for violent behavior. On June 16, 2006, he received a written warning for grabbing an employee in an offensive manner.

After considering the totality of circumstances, the termination is upheld and the grievance denied.

cc: Anthony Knight / President, ILA 1694-1
Andy Markow / Labor Relations & Hiring Manager
Frank Vignuli / Director of Operations

DIAMOND STATE PORT CORPORATION

1 Hausel Road • Wilmington, Delaware 19801-5852 • Phone: (302) 472-PORT (7678) • Fax: (302) 472-7740
PORT OF PERSONAL SERVICE

Rainey, Edward

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1:20 PM

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STARTER PACKS/SAMPLE MEDICATIONS:

I understand and acknowledge that I may have received medication in a NON-CHILD PROOF container. I understand if a child is in the presence of this container the container could be opened.

I understand that this and all medications should be kept out of the reach of children.

I understand that the treatment I have received was rendered on an emergency basis only and that further treatment may be necessary. I have been given a copy of the above instructions. I understand these instructions; and I will arrange for follow-up care as outlined above. If my condition worsens, I will call my doctor or return to the Emergency Department.

(Signature)

Circle One: PATIENT PARENT SPOUSE RELATIVE FRIEND GUARDIAN

NOTE: Your insurance company may require you to contact them or your primary care physician as soon as possible after your Emergency Room visit.

*** PHYSICIAN REFERRAL: If you need assistance obtaining a local physician or dentist you may call the "Christiana Care Referral Service" help line at 302-428-4100.

*** LAB RESULTS/MEDICAL RECORDS: You may call at 302-428-6852.

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*** FLU SEASON HAS ARRIVED, AND THE CDC EXPECTS THIS YEAR TO BE A BAD ONE!
PLEASE CONTACT YOUR FAMILY PHYSICIAN AND ARRANGE TO HAVE THIS SEASON'S VACCINE. PEOPLE THAT ARE ELDERLY, VERY YOUNG, OR SUFFER FROM ASTHMA OR RESPIRATORY ILLNESSES ARE PARTICULARLY AT RISK ***
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EMP #2

Discharge Instructions from:
 Steven Kushner, M.D. / Joseph Zaweski, PA-C
 Christiana Care Health Services - Wilmington Hospital

Christiana Hospital, 4755 Ogletown-Stanton Rd, Newark, DE 302-733-1000
 Wilmington Hospital, 14th & Washington St, Wilmington, DE 302-733-1000

Any Concern,...Return!

CONTINUE YOUR CURRENT MEDICATIONS AS PRESCRIBED BY YOUR PRIVATE PHYSICIAN(S) UNLESS OTHERWISE INSTRUCTED BY YOUR EMERGENCY DEPARTMENT PROVIDER HERE TODAY.

DIAGNOSIS: Periorbital contusion

PERIORBITAL CONTUSION:

You have a bruise to the outside of the eye and surrounding structures. There is no apparent fracture, injury to the eyeball, inside the eye, or the muscles and nerves around the eye.

You may get a "black eye" over the next 24 hours. This is from blood under the skin of the eyelids. This is not dangerous, and can be reduced by ice to the eyelids 20 minutes 4 times daily for 2-3 days. Do not be alarmed if the eye swells shut. You are probably okay if you can force your eye open a little and see normally when you do that.

NOTIFY YOUR DOCTOR or return here in case of the following:

- Increasing pain in the eye or with movement of the eye.
- Visual disturbance.
- Double vision.

NON-NARCOTIC PAIN MEDICATION:

Tylenol (acetaminophen) or Advil (ibuprofen) are good "over-the-counter" medications for pain. You should be able to take them without being sleepy from it. For mild pain, take 2 or 3 regular strength Tylenol, or 2 extra-strength Tylenol, or 2-3 Advil/Motrin(ibuprofen) tablets every 6 hours, or 2 Alleve(naproxen) every 12 hours. If your pain is more severe you may take full doses of Tylenol and Advil together.

If you were prescribed a narcotic medication, you may take Advil with it. Do not take Tylenol with narcotic medications unless you are sure that they do not already contain acetaminophen, as many of them do.

Do not take Advil with other anti-inflammatory medications or with aspirin.

---- Instructions are continued on next page. ----